

### **XXXI. DEDICATED/SCENIC STREETS (Added March 2005)**

Authority. This Section is enacted in accordance with the provisions of RSA 231:157 and RSA 231:158.

Purpose. This ordinance seeks to address the need to have dedicated/scenic streets in the Town of Newton.

1. Scenic Roads: Designation. Any road in a town, other than a class I or class II highway, may be designated as a scenic road in the following manner. Upon petition of 10 persons who are either voters of the town or who own land which abuts a road mentioned in the petition (even though not voters of the town), the voters of such town at any annual or special meeting may designate such road as a scenic road. Such petitioners shall be responsible for providing the town clerk with a list of known property owners whose land abuts any of the roads mentioned in the petition. The Town Clerk shall notify by regular mail within 10 days of the filing all abutters along the road that lies within the town that a scenic road petition has been filed for and that an article to designate such road as a scenic road will appear in the warrant at the next town meeting. The voters at a regular town meeting may rescind in like manner their designation of a scenic road upon petition as provided above. Notice to the abutting landowners shall also be given as provided above. Each town shall maintain and make available to the public a list of all roads or highways or portions thereof within the town which have been designated as scenic roads. Such list shall be kept current by updating not less than annually and shall contain sufficient information to permit ready identification of the location and extent of each scenic road or portion thereof, by reference to a town map or otherwise. The current list of designated scenic roads in Newton as per the Master Plan are as follows:
  - a) Gale Village Road;
  - b) Currierville Road;
  - c) Maple Avenue;
  - d) Gould's Hill Road;
  - e) Heath Street;
  - f) Bartlett Street; &
  - g) Thornell Road.

In Newton, the authority to remove or alter trees and stone walls with prior written consent was transferred from the Planning Board to the Conservation Commission by town vote in 1974.

2. Effect of Designation as Scenic Roads:
  - I) As used in this subdivision, "tree" means any woody plant which has a circumference of 15 inches or more at a point 4 feet from the ground.
  - II) Upon a road being designated as a scenic road as provided in RSA 231:157, any repair, maintenance, reconstruction, or paving work done with respect thereto by the State or Municipality, or any action taken by any utility or other person acting to erect, install or maintain poles, conduits, cables, wires, pipes or other structures pursuant to RSA 231:159-189 shall not involve the cutting, damage or removal of trees, or the tearing down or destruction of stone walls, or portions thereof, except with the prior written consent of the planning board, or any other official municipal body designated by the meeting to implement the provisions of this subdivision, after a public hearing duly advertised as to time, date, place, and purpose, 2 times in a newspaper of general circulation in the area, the last publication to occur at least 7 days prior to such hearing, provided, however, that a road agent or his designee may, without such hearing, but only with the written permission of the selectmen, remove trees or portions of trees which have been declared a public nuisance pursuant to RSA 231:145 and 231:146, when such

trees or portions of such trees pose an imminent threat to safety or property, and provided, further, that a public utility when involved in the emergency restoration of service, may without such hearing or permission of the selectmen, perform such work as is necessary for the prompt restoration of utility service which has been interrupted by facility damage and when requested, shall thereafter inform the selectmen of the nature of the emergency and the work performed, in such manner as the selectmen may require.

III). Designation of a road as scenic shall not affect the eligibility of the town to receive construction, maintenance or reconstruction aid pursuant to the provisions of RSA 235 for such road.

IV). Designation of a road as a scenic road shall not affect the rights of any landowner with respect to work on his own property, except to the extent that trees have been acquired by the municipality as shade or ornamental trees pursuant to RSA 231:139-156, and except that RSA 472:6 limits the removal or alteration of boundary markers including stone walls.

V). A town may, as part of a scenic road designation under RSA 231:157 or as an amendment to such designation adopted in the same manner, impose provisions with respect to such road which are different from or in addition to those set forth in this section. Such provisions may include, but are not limited to, decisional criteria for the granting of consent by the planning board or other designated municipal body under paragraph II, or protection of trees smaller than those described in paragraph I, designated for the purpose of establishing regenerative growth along the scenic road.

VI). Any person who violated this section or any local provision adopted under this section shall be guilty of a violation and shall be liable for all damages resulting there from.

#### **XXXII. PRELIMINARY SUBDIVISION REVIEW (Added March 2005)**

Per RSA 674:35, Sect. 1, as mandated by the State of N.H.: The Planning Board is authorized to require preliminary subdivision review. The subdivision regulations regarding the requirements of such review are to be prepared and adopted by the Planning Board.